

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of Section 63.71 Application of

Affiniti, LLC and Affiniti PA, LLC for
Authority Pursuant to Section 214 of the
Communications Act to Discontinue its
Wireline Telecommunications Services

WC Docket No. 19-151
Comp. Pol. File No. 1538

EX PARTE REPLY OF AFFINITI

Affiniti LLC and Affiniti PA, LLC (“Affiniti”) hereby respond to the late-filed *ex parte* comments filed in the above-captioned docket and file number by Tuscarora Intermediate Unit (“TIU 11”),¹ and supplements the record with additional information.

TIU 11 seeks to replace a discontinued service that is outside the scope of the regulations governing this proceeding (Internet access service), with a service for which it never had a contract with Affiniti (a bare transport service), by belatedly asking the Commission to use non-existent authority to force a company that has already lawfully shut-down and otherwise exhausted its financial and other resources to provide such services. Obviously, this makes no sense, but Affiniti has nevertheless agreed to supplement the record with additional facts.

The service provided to TIU 11 was Internet access, which is an unregulated information service not subject to the discontinuance procedures of 47 CFR 63.71. It appears that TIU 11 is attempting to muddy the waters by referring to the service as “broadband transport,” which is the same tactic used by the only other commenter in this proceeding, ARIN IU 28. After Affiniti pointed out that the service being provided to ARIN IU 28 was an unregulated broadband service

¹ *Ex Parte* Submission – Section 63.71 Application of Affiniti, LLC and Affiniti PA, LLC for Authority Pursuant to Section 214 of the Communications Act to Discontinue Wireline Telecommunications Services, WC Docket No. 19-151, Comp. Pol. File No. 1538 (filed June 28, 2019).

and not a telecommunications service, ARIN IU 28 acknowledged as much in a submission filed the same day as TIU 11's comments that the services in question were indeed broadband services. Specifically, ARIN IU 28 acknowledged that Affiniti's "provision of *Internet access service* to us is outside the scope of their Section 63.71 application since Internet is an unregulated service. Nonetheless, the Commission should compel Affiniti to continue providing *broadband transport* service to us."²

Thus, both TIU 11 and ARIN IU 28 appear to be pushing the Commission to compel the continued provision of service in the form of some sort of bare transport, even though the parties never had a contract for such services. This is not something contemplated in any Commission rules or orders.

And again, as with ARIN IU 28, this is not something that is within Affiniti's ability to do, for several reasons. First, Affiniti provided these Internet access services on a resold basis, meaning that it purchased a fully-integrated Internet access service from a third party, which it then resold to TIU 11. Affiniti never had a contract from this vendor (or any other vendor where TIU 11 is located) for bare transport service. Affiniti cannot provide what it does not have.

Second, Affiniti sought Commission approval to discontinue its services because it is in dire financial straits. It is simply no longer able to provide any services to any of its customers.

Third, pursuant to the automatic grant provisions of Section 63.71 and the Bureau's Public Notice in this proceeding, Affiniti has now shut down all operations.³ Affiniti gave TIU 11 plenty of advance notice of the fact that it would need to seek alternative services—several months, in fact, in order to try to assist TIU 11 as much as possible find alternative service. Yet TIU 11 filed its first and only comments two weeks late—the June 14, 2019 comment deadline

² ARIN *Ex Parte* Comments at 1 (emphasis added).

³ *Comments Invited on Section 214 Application(s) to Discontinue Domestic Non-Dominant Carrier Telecommunications Services*, Public Notice, DA 19-488 (WCB rel. May 30, 2019).

set forth in the Public Notice. This Public Notice authorized Affiniti to discontinue all operations within the scope of 47 CFR 63.71 by June 30, 2019 absent a further Public Notice to the contrary. The Bureau never issued any such further Public Notice, and Affiniti discontinued its operations accordingly. Even if it had issued a second Public Notice notifying Affiniti that it would no longer benefit from the automatic grant provisions, this would not have helped TIU 11 (or ARIN IU 28) as those entities never received services within the purview of Section 63.71 of the Commission's rules.

In light of the foregoing, Affiniti would suggest that TIU 11 focus its resources on finding alternative service rather than continuing to seek an unavailable remedy.

Respectfully submitted,



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